





## NOTICES OF FIRMS.

**NOTICE.**  
FROM and after 1st January, 1874, the business of the undersigned will be incorporated, and carried on under the name and style of "NEWMAN & CO."  
WALTER NEWMAN,  
JOHN GITTINS,  
1704, Fenchurch Street, London, E.C.

**NOTICE.**  
THE interest and responsibility of the late Mr. CHARLES WILSON MURRAY, in our Firm, ceased on the 16th August last.  
BIRLEY & CO.,  
11, 15, 17, Fenchurch Street, London, E.C.

**NOTICE.**  
M. R. AD. S. COMBES has this day been admitted a partner in our firm.  
A. CORDELL & CO.,  
45, 47, Fenchurch Street, London, E.C.

## The Daily Press.

LONDON, FRIDAY, NOVEMBER 21st, 1873.

The judicial decisions given by Mr. Geo. R. SEARNS, the United States Consul-General in Shanghai, are usually so carefully considered, and are regarded with so much respect by professional men, that any marked deviation in one of them, from well-recognized principles, is a noticeable circumstance. We cannot, however, help thinking that, in the judgment which he delivered in the case of the *People of the United States v. Seidman*, such a deviation was made, and, as the matter has attracted a great deal of attention both at Shanghai and here, it would be undesirable that what appears to be a very serious error in principle should be passed without notice, especially as it is of a kind likely to lead to pernicious results.

To the judgment as a whole no exception can be taken. The term of imprisonment awarded is a severe one, especially considering the nature of the crime; and we doubt not that the pardoning power of the United States' Minister would be brought into play only in case of some serious emergency calling for such a course. It thus seems hardly necessary for any excuse to have been made for the leniency of the sentence; but Mr. SEARNS, sensible of the gravity of the offence, considered it desirable to point out why he did not inflict a severer punishment; and it is in this part of his judgment in which he has fallen into the error alluded to.

He states, among other reasons, for not inflicting the full penalty of the law, that the temptation to which the accused was exposed should be taken into consideration, and adds: "It would be unnecessary for us to point out in what way the course of business in Shanghai, under which these frauds have been possible, is defective. The circumstances of the case illustrate the fact that, given a certain disregard of right dealing on the part of the accused, the frauds were perpetrated with complete ease, and, excepting for the magnitude of the transactions, with great immunity from exposure. The condition of things under which the frauds were perpetrated must not act to mitigate the sentence to be given. If I can only say that to be spared from temptation is not a reason for my opinion, I can only say that to be spared from temptation is not a reason for my opinion."

Now, with every respect for the shrewdness which usually characterizes Mr. SEARNS' judgments, we cannot help saying that this may be excellent theology but is very bad law. Without entering upon religious dogma, which would be as little appropriate in a newspaper article as in a judgment, we may be permitted to observe that most certainly to Christian sect ever pleaded man's being exposed to temptation as a reason why his sins should be forgiven, so that the illustration is not very happy. But we have to deal simply with the legal bearing of the view enunciated, and upon this more limited ground, have no difficulty, because that view is opposed to a principle fully recognised by the highest authorities, and that is, that punishment must be severe in proportion to the facility which a person has of committing a crime or a breach of trust. There is no crime more easy of perpetration than forgery; and, in a great measure, for this very reason, now, with the exception of murder, which is more severely visited by the law, the object of all punishment in the present day is deterrent, not vindictive, and the facilities which exist for the perpetration of a crime make it all the more necessary that society should be protected against it. It may be asserted that this argument only goes as far as to apply to such facilities as necessarily exist in the nature of commerce, and this is no doubt true; but the argument will only carry us as far as the conclusion that unusual facilities existing in consequence of carelessness or a bad system of business, do not form a ground for additional severity, because society can protect itself against the exceptional facility to injury by being more careful or more systematic, but it will not carry us so far as the conclusion that exceptional facilities should be considered a ground for leniency. They form an excellent basis for not sympathizing very deeply with those who lose their money, but not for punishing the criminal with less severity than is prescribed by the law, which has regard solely to the necessity of protecting society. The law goes on the assumption that reasonable vigilance will always be used by men for their own protection, and then makes its punishment in proportion to the injuriousness of a crime and to the facilities which exist for perpetrating it. It is assumed that men will not trust one another in matters of business more than is justifiable by the special circumstances attending to each case, or necessary from the nature of business; the facility to loss being justly considered the best security for this circumstance. If in certain cases, or in particular places, such circumstances are not exercised so fully as it ought to be, the sufferer from a fraud is not justified in asking for a specially severe administration of the law to protect him against the consequences of his own imprudence; but, on the other hand, it is equally unreasonable to claim on behalf of a criminal that the law should be administered more leniently because he had peculiar facilities for committing a crime. On this principle, we should have to pursue with relentless severity the man who from poverty and misfortune has been brought up to a life of degradation and crime, but treat very lightly and tenderly the rascal whose birth and circumstances have placed him in a position to command people's confidence. We should have to hang BIRLEY and the *ARTIST* DODGINS, and let off

## LATE TELEGRAMS.

## REUTERS' TELEGRAMS.

## SUPPLIED TO THE "DAILY PRESS."

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